

REMARKS

This paper is being filed in Response to the Office Action mailed October 28, 2008. By this Response, claims 31 to 41, 48, 59 to 70, 73 to 76, 79, 83, 86, 87, 105 to 114, 116, 118, 120, 122 to 126, 128, and 131 to 133 have been canceled herein without prejudice. Applicants maintain the right to prosecute the canceled claims in any related application claiming the benefit of priority of the subject application. Accordingly, upon entry of this Response, claims 1 to 8, 11 to 14, 17 and 127 are under consideration.

Regarding the Amendment to the Specification

The title has been amended as requested by the Examiner to be indicative of the claimed subject matter. The amendment was made solely in order to advance prosecution and place the application in condition for allowance, and is not to be construed as limiting or providing meaning to the claimed subject matter in any way. Accordingly, as the amendment to the specification was made to address an informality, no new matter has been added and entry thereof is respectfully requested.

Rejection for Obviousness-type Double Patenting

The rejection of claims 1 to 8, 11 to 14, 17 and 127 due to obviousness-type double patenting as unpatentable over claims 1, 2, 4, 12, 14, 16, 18, 22, 24, 32 and 40 of US Patent No. 6,635,740 is respectfully traversed.

Submitted herewith is an executed Terminal Disclaimer under 37 C.F.R. §1.321(c). In view of the Terminal Disclaimer, the rejection should be withdrawn.

Rejection under 35 U.S.C. §112, First Paragraph, Written Description

The rejection of claims 131 to 133 under 35 U.S.C. §112, first paragraph as allegedly lacking an adequate written description is respectfully traversed. The grounds for rejection are as set forth on pages 3-5 of the Action.

Applicants maintain the claims 131 to 133 are adequately described. Nevertheless, solely in order to advance prosecution and place the claims in condition for allowance, claims 131 to 133 have been canceled herein without prejudice. Accordingly, the rejection under 35 U.S.C. §112, first paragraph as allegedly lacking an adequate written description is moot.

Rejection under 35 U.S.C. §112, First Paragraph, Enablement

The rejection of claims 131 to 133 under 35 U.S.C. §112, first paragraph as allegedly lacking enablement is respectfully traversed. The grounds for rejection are as set forth on pages 5-7 of the Action.

Applicants maintain the claims 131 to 133 are adequately enabled. Nevertheless, solely in order to advance prosecution and place the claims in condition for allowance, claims 131 to 133 have been canceled herein without prejudice. Accordingly, the rejection under 35 U.S.C. §112, first paragraph as allegedly lacking enablement is moot.

CONCLUSION

In summary, for the reasons set forth herein, Applicants maintain that claims 1 to 8, 11 to 14, 17 and 127 clearly and patentably define the invention, respectfully request that the Examiner reconsider the various grounds set forth in the Office Action, and respectfully request the allowance of the claims which are now pending.

If the Examiner would like to discuss any of the issues raised in the Office Action, Applicant's representative can be reached at (858) 509-4065. Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP



ROBERT M. BEDGOOD
Reg. No. 43488
Tel. No. 858.509.4065
Fax No. 858 509.4010

Date: February 27, 2009
12255 El Camino Real
Suite 300
San Diego, CA 92130-4088
(619) 234-5000